

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEVARY THOMPSON,

Plaintiff,

Case No. 21-CV-10168

vs.

HON. GEORGE CARAM STEEH

WAL-MART STORES EAST,
LP and JOHN DOE,

Defendants.

_____ /

ORDER ACCEPTING MAGISTRATE JUDGE'S REPORT
AND RECOMMENDATION TO DISMISS FOR FAILURE
TO PROSECUTE AND OBEY A DISCOVERY ORDER (ECF No. 21)

Plaintiff Devary Thompson brings a negligence claim asserting that an employee of defendant Wal-Mart Stores East, LP allegedly pushed shopping carts into plaintiff's back. The case was referred to the assigned Magistrate Judge for all non-dispositive pretrial matters as well as for a report and recommendation ("R&R") as to defendant's motion to dismiss. As documented by the Magistrate Judge in his R&R (ECF No. 21), plaintiff failed to respond to multiple discovery requests, motions (including defendant's motion to dismiss) and court orders. Ultimately the Magistrate Judge issued an order to show cause why it should not recommend dismissal under Rule 37(b)(2)(A) for plaintiff's failure to obey its order to

produce answers to interrogatories and executed record authorizations, or why the Magistrate Judge should not recommend dismissal under Rule 41(b) or Local Rule 41.2 for failure to prosecute or comply with the court's order. (ECF No. 19.) The Magistrate Judge warned plaintiff that failure to comply with the order to show cause would result in a recommendation of dismissal under Rule 37(b)(2)(A), Rule 41(b), or Local Rule 41.2, or all three rules. Plaintiff did not respond to the order to show cause by the January 3, 2022 deadline.

The matter is now before the court on the Magistrate Judge's R&R that defendant's motion to dismiss (ECF No. 16) be granted under Rule 41(b), Local Rule 41.2, and Rule 37(b)(2)(A) and that all claims against Wal-Mart and John Doe be dismissed with prejudice. The Magistrate Judge also recommends that Wal-Mart is entitled to reasonable expenses, including attorney's fees, associated with preparing the motion to dismiss. (ECF No. 16.) Plaintiff has failed to file a timely objection to the R&R.

This Court agrees with and adopts the thorough analysis conducted and recommendations made by the Magistrate Judge. Now, therefore, for the reasons stated by the Magistrate Judge,

IT IS HEREBY ORDERED that the R&R (ECF No. 21) is accepted and adopted by the Court.

IT IS HEREBY FURTHER ORDERED that defendant's motion to dismiss (ECF No. 16) is GRANTED and that all claims against defendants are dismissed with prejudice.

IT IS HEREBY FURTHER ORDERED that defendant Wal-Mart is entitled to reasonable expenses, including attorney's fees, associated with preparing the motion to dismiss. Wal-Mart should prepare and file a sworn bill of costs in support thereof. Plaintiff may file objections based on the reasonableness of Wal-Mart's submission.

It is so ordered.

Dated: March 8, 2022

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on March 8, 2022, by electronic and/or ordinary mail.

s/Brianna Sauve
Deputy Clerk